

In the High Court of Judicature at Madras

Dated: 11.08.2015

Coram:

The Honourable Mr. SANJAY KISHAN KAUL, Chief Justice
and

The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition Nos. 22594 to 22607 of 2015
and M.P. Nos.1 of 2015 (14 petitions)

T. Pappammal	.. Ptr. in WP.No.22594/2015
A. Lourdhammal	.. Ptr. in WP.No.22595/2015
Caroline Priya	.. Ptr. in WP.No.22596/2015
T. Savariammal	.. Ptr. in WP.No.22597/2015
T. Premala	.. Ptr. in WP.No.22598/2015
Kannaikai Mary	.. Ptr. in WP.No.22599/2015
E. Mitilda	.. Ptr. in WP.No.22600/2015
Amala Mary	.. Ptr. in WP.No.22601/2015
T. Lourdhu Mary	.. Ptr. in WP.No.22602/2015
T. Lilly Mary	.. Ptr. in WP.No.22603/2015
A.Leema Rose	.. Ptr. in WP.No.22604/2015
T.M.Lucia Mary	.. Ptr. in WP.No.22605/2015
T. Jaya Mary	.. Ptr. in WP.No.22606/2015
E.A. Jesintha	.. Ptr. in WP.No.22607/2015

vs.

1. The District Collector
Kancheepuram District, Kancheepuram.
2. The Tahsildar
Maduranthakam Taluk, Maduranthakam
Kancheepuram District. Respondents in all petns.

COMMON PRAYER: These Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the record of the 1st respondent in their order of rejection vide proceeding in Na.Ka.No.47605/2007/A3, dated 17.07.2015, relating to land situated in S.No.477/1, 477/1, 507/1, 507/1, 477/1, 480/3, 507/1, 478/1, 477/1, 507/1, 507/1, and 480/3 respectively measuring to an extent of 00160, 00260, 01307, 00340, 01602, 00910, 00698, 00923, 01252, 01021, 00864, 00429, 01377 and 00180 sq.mtrs. respectively at Sagaya Nagar Village, 149, Budhur Panchayat, Madhuranthakam Taluk, Kancheepuram District, quash the same and direct the respondents to forbear them from in anyway interfering with the peaceful possession of the petitioner of the same.

For Petitioners : Mr. D.S. Rajasekaran
for Mr. K. Subramanian
For Respondents : Mr. S.T.S. Murthi
Govt. Pleader assisted by
Mr.V.Shanmugasundar, Govt. Advocate.

COMMON ORDER

(Made by The Hon'ble The Chief Justice)

The fourteen petitioners in these petitions had earlier filed Writ Petition No.9635 of 2010, seeking grant of pattas from the State Government in respect of Government poramboke land occupied by them, in view of G.O.Ms.No.854, Revenue Department, dated 30.12.2006. These petitioners were, thus, aggrieved by the eviction notices issued under Section 6 of the Tamil Nadu Land Encroachment Act, 1905, dated 10.04.2010.

2. Notices were issued in the petitions and interim stay was granted, which continued for more than four years till that writ petition along with another Writ Petition No.9636 of 2010 of eighteen petitioners were together disposed of by the common order dated 09.12.2014 with the direction that their eligibility be examined for the benefit of the Government Order and in case, they were so entitled, pattas should be issued, while if they were found ineligible, proceedings in terms of the aforesaid Act, would follow.

3. The Tahsildar rejected their case vide order dated 24.06.2015 and the same was affirmed by the District Collector in appeal by the order dated 17.07.2015.

4. It is the appellate order, which is now sought to be assailed before us by the petitioners.

5. The petitioners in Writ Petition No.9636 of 2010 had apparently been allotted pattas, but had encroached upon excess land and were claiming regularisation of that excess land. The petitioners in the present petitions arising from Writ Petition No.9635 of 2010 were claiming pattas to the land, which had not been allotted. A perusal of the appellate order shows that the authority appears to have mixed up the facts of the case and has treated all the cases as if they had already been allotted pattas and were seeking regularisation of the excess land. This is quite obvious from paragraphs 4, 5 and 6 of the impugned order, where a reference has been made to the extent of pattas granted and the further encroachment made, as also the factum of the petitioners accepting the same, but seeking benefit under the G.O. for regularisation on payment of additional amount as per the guidelines of the Government and in that context, it is also to be noticed that encroached "excess" land is towards cattle shed, goat shed and backyard. Thus, directions were issued to remove the encroachment.

6. Learned counsel for the petitioners has rightly pointed out that it is the grievance of the other petitioners numbering 18, who had filed Writ Petition No.9636 of 2010, which has been rejected for the reasons recorded in the impugned order, as to why excess land beyond the limit cannot be regularised. It is also urged that contrary to what is recorded in the impugned order, the petitioners before this Court or their husbands are not Government servants and could not be disentitled on that account, but are all labourers. This is, of course, a factual matter and the appellate authority ought to have dealt with the appeals, segregating the facts qua the 14 petitioners before us to the extent they were common and to the extent they were different and as to why they were not entitled to the pattas under the aforesaid Government Order.

7. The result of the aforesaid is that the impugned orders are liable to be set aside and limited to the aforesaid extent qua the fourteen petitioners before us, making it clear that our order does not have any impact on the impugned order to the extent, which dealt with the case of the petitioners, who had filed Writ Petition No.9636 of 2010. A fresh order would have to be passed dealing with the case of the petitioners before this Court and the matter is remitted for the said purpose. The order shall be passed within one month from today, after giving an opportunity of hearing to the petitioners.

8. These writ petitions are allowed in the aforesaid terms, leaving the parties to bear their own costs.

9. The matter need not be listed on 11.08.2015 before the II Bench, as this matter was called to this Court on account of Contempt Petition No.22 of 2015.

10. It is needless to say that no coercive steps shall be taken against the petitioners till the decision of the appellate authority and for a period of one week of its communication to the petitioners.
ATR

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To:

1. The District Collector
Kancheepuram District, Kancheepuram.
2. The Tahsildar
Maduranthakam Taluk, Maduranthakam
Kancheepuram District.

+ 1 cc to Govt.Pleader SR 41890
nm(co)
prk12/8

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